

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

RAYMOND FRANK JOSEPH,

Plaintiff,

Case No. 23-cv-11824

Hon. Matthew F. Leitman

v.

ORKIN, LLC, *et al.*,

Defendants.

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**ORDER GRANTING PLAINTIFF LEAVE**  
**TO FILE A FIRST AMENDED COMPLAINT**

On June 27, 2023, Plaintiff Raymond Frank Joseph filed this breach of contract and negligence action against Defendants Orkin, LLC and Rollins, Inc., in the Oakland County Circuit Court. (*See* Compl., ECF No. 1, PageID.9-15.) Defendants thereafter removed the action to this Court. (*See* Notice of Removal, ECF No. 1.)

Defendants have now filed a motion to dismiss Joseph's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (*See* Mot. to Dismiss, ECF No. 2.) One of the primary bases for dismissal is that Joseph has failed to plead sufficient facts to state viable claims under the Supreme Court's decisions in *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). (*See, e.g., id.*, PageID.41, 44-48.)

Without expressing any view regarding the merits of the motion to dismiss, the Court will grant Joseph the opportunity to file a First Amended Complaint in order to remedy the alleged deficiencies in his allegations identified in the motion to dismiss. The Court does not anticipate allowing Joseph another opportunity to amend to add factual allegations that he could now include in his First Amended Complaint. Simply put, this is Joseph's opportunity to amend his allegations to cure the alleged deficiencies in his claims.

By **August 18, 2023**, Joseph shall file a notice on the docket in this action notifying the Court and Defendants whether he will amend his Complaint. If Joseph provides notice that he will be filing a First Amended Complaint, he shall file that amended pleading by no later than **September 1, 2023**. If Joseph provides notice that he will not be filing a First Amended Complaint, he shall respond to the motion to dismiss by no later than **September 1, 2023**.

Finally, if Joseph provides notice that he will be filing a First Amended Complaint, the Court will terminate without prejudice Defendants' currently-pending motion to dismiss as moot. Defendants may re-file a motion to dismiss directed at the First Amended Complaint if they believe that such a motion is appropriate after reviewing that pleading. **IT IS SO ORDERED.**

Dated: August 4, 2023

s/Matthew F. Leitman  
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MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 4, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126